

WINSTON DARIN POYER,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Cir. 2015) (collecting cases). Secondly, a claim challenging a Career Offender designation, when considered separately from an ineffective assistance of counsel claim, is not cognizable on collateral review. See United States v. Foote, 784 F.3d 931, 936 (4th Cir.), cert. denied, 135 S. Ct. 2850 (June 15, 2015). Finally, Petitioner's claim of ineffective assistance fails because he was convicted of four qualifying drug offenses that earned him the Career Offender designation; thus any challenge by his counsel would have been meritless. (3:04-cr-00162, Doc. No. 61: Presentence Report ¶¶ 35, 41, 44, 46).

IT IS, THEREFORE, ORDERED that Petitioner's motion to amend his **DENIED**. (Doc. No. 16).

IT IS FURTHER ORDERED that pursuant to Rule 11(a) of the Rules Governing Section 2255 Cases, the Court declines to issue a certificate of appealability as Petitioner has not made a substantial showing of a denial of a constitutional right. 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 474, 484 (2000) (holding that when relief is denied on procedural grounds, a petitioner must establish both that the correctness of the dispositive procedural ruling is debatable, and that the petition states a debatably valid claim of the denial of a constitutional right).

SO ORDERED.

Signed: October 2, 2015



Frank D. Whitney
Chief United States District Judge

